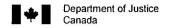
s.21(1)(b)



Ministère de la Justice Canada

FOR INFORMATION
NUMERO DU DOSSIER/FILE #: 2016-016971
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Protected B

TITRE/TITLE: Early Options for Canada's Accession to the Optional Protocol to the Convention against Torture

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

•	In May 2016, the Minister of Foreign Affairs announced that Canada would consider
	becoming a State Party to the Optional Protocol to the Convention against Torture
	(OP-CAT).

•	The OP-CAT is a UN treaty that strengthens the prevention of torture and ill-treatment in
	places of detention. It requires States Parties to ensure regular inspections of all places of
	detention by allowing a UN body to conduct visits every 4-5 years, while also designating
	or establishing independent "National Preventive Mechanisms" (NPMs) that will perform
	more regular visits. NPMs can be new or existing bodies.

• At various times between 2002 and 2010, federal officials worked with the provinces and territories to conduct preliminary analysis of the OP-CAT.

Consultations

will be held with other federal departments and agencies, the provinces and territories, Indigenous governments and organizations, and civil society.

Soumis par (secteur)/Submitted by (Sector):

Public Law and Legislative Services Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

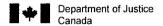
Claudine Patry

Revue dans I'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: September 19, 2016

s.21(1)(b)



Ministère de la Justice Canada

Protected B FOR INFORMATION

2016-016971

MEMORANDUM FOR THE MINISTER

Early Options for Canada's Accession to the Optional Protocol to the Convention against Torture

ISSUE

The Department of Justice is leading the policy work on Canada's accession to the *Optional Protocol to the Convention against Torture* (OP-CAT).

BACKGROUND

In May 2016, the Minister of Foreign Affairs announced that Canada would consider becoming a State Party to the OP-CAT.

The OP-CAT is a binding international treaty that strengthens the prevention of torture and other ill-treatment. It requires States Parties to ensure regular inspections of all places of detention by allowing a UN body to conduct visits every 4-5 years, while also establishing or designating independent "National Preventive Mechanisms" (NPMs) that will perform more regular visits. The UN body and the NPMs issue non-binding recommendations, which the State must consider. The "places of detention" that are subject to visits include prisons (civilian and military), remand facilities, immigration detention facilities, police cells, and psychiatric hospitals.

CONSIDERATIONS

The OP-CAT requires each State Party to allow a UN body to conduct periodic visits to its places of detention, about once every 4-5 years. It also requires each State Party to open up all of its places of detention to more frequent visits by a designated NPM. States Parties have flexibility in establishing their NPMs. A federal State can have one or more at each level of government, and

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existing bodies as NPMs, and one of them is an overall co-ordinator. That said, the OP-CAT sets out baseline requirements for NPMs' mandate and powers, and NPMs must have a certain level of independence and resources. These baselines are explained in more detail in the attached discussion paper.
At various times between 2002 and 2010, federal officials worked with the provinces and territories to conduct
preliminary analysis of OP-CAT implementation.

 $\label{eq:page 2 of 3 revs mlu 31 Aug 2016-016971 -OP-CAT Ratification BN} Page 2 of 3$ revs mlu 31 Aug 2016-016971 -OP-CAT Ratification BN

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CONCLUSION

Consultations will be held with other federal departments and agencies, the provinces and territories, Indigenous governments and organizations, and civil society.

ANNEXES

Annex 1:

Annex 2:

PREPARED BY
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ANNEX 1

Pages 6 to / à 48 are withheld pursuant to sections sont retenues en vertu des articles

21(1)(b), 23

ANNEX 2

Pages 50 to / à 51 are withheld pursuant to sections sont retenues en vertu des articles

21(1)(a), 21(1)(b), 23, 69(1)(g) re (d)

Page 52
is withheld pursuant to sections
est retenue en vertu des articles

21(1)(a), 21(1)(b), 23, 69(1)(g) re (d)

Page 53 is withheld pursuant to sections est retenue en vertu des articles

21(1)(a), 21(1)(b), 23

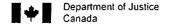
Page 54 is withheld pursuant to sections est retenue en vertu des articles

19(1), 21(1)(a), 21(1)(b), 23

Pages 55 to / à 63 are withheld pursuant to sections sont retenues en vertu des articles

21(1)(a), 21(1)(b), 23

s.14



Ministère de la Justice Canada

FOR APPROVAL
NUMERO DU DOSSIER/FILE #: 2016-013428
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Secret

TITRE/TITLE: Use of the Victims Fund to Cover Potential Shortfalls in Provincial and Territorial Revenue Resulting from Proposed Amendments to the Victim Surcharge Provisions

	SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY
•	
•	
•	
•	
Approbation/signature	de la ministre demandée pour le/Minister's signature/approval requested by:
Approvation/signature	As soon as possible

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Cathy Rudick

Revue dans l'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: September 16, 2016

s.14

s.21(1)(a)

s.23

Department of Justice Canada

Ministère de la Justice Canada

Secret FOR APPROVAL

2016-013428

MEMORANDUM FOR THE MINISTER

Use of the Victims Fund to Cover Potential Shortfalls in Provincial and Territorial Revenue Resulting from Proposed Amendments to the Victim Surcharge Provisions

ISSUE
BACKGROUND
The victim surcharge is an additional penalty automatically imposed on adult offenders at the time of sentencing. The federal victim surcharge was introduced in 1989 to replace the former cost-sharing agreements with PTs to help fund criminal injuries compensation programs. All federal victim surcharge monies are collected by the PTs and used to fund victim services in the jurisdiction where the crime occurred.

s.21(1)(a)

s.21(1)(b)

CONSIDERATIONS

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s.14 s.21(1)(a)

s.21(1)(b)

OPTIONS s.69(1)(g) re (c)

Page 3 of 4 revs mlu 15 Sep BN 2016-013428 Victim Surcharge and Victims Fund

ANNEXES

Annex 1: Federal victim surcharge revenue for the provinces and territories

Victims Fund supports to provinces and territories Annex 2:

PREPARED BY

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The Honourable Jody Wilson-Raybould

Oct. 3/16 Date

revs mlu 15 Sep BN 2016-013428 Victim Surcharge and Victims Fund

s.21(1)(a)

s.21(1)(b)

Annex 1

2016-013428

Federal victim surcharge revenue for the provinces and territories

Imposed and collected federal victim surcharges from adult court per province and territory by fiscal year, 2010-2015*

		year, 2010-2				*	
Province/Territory	Year			Province/Territory	Year	Fede	
		Surcharge Imposed	Surcharge Collected			Surcharge Imposed	Surcharge Collected
British Columbia ¹	2010- 2011	N/A	\$674,873	Nova Scotla ²	2010	\$367,096	\$311,569
	2011- 2012	N/A	\$579,816		2011	\$338,292	\$309,278
	2012- 2013	N/A	\$543,487		2012	\$313,330	\$306,061
	2013- 2014	N/A	\$503,435		2013	\$317,092	\$295,868
	2014- 2015	N/A	\$458,355.*		2014	\$903,612	\$374,899
Alberta	2010- 2011	N/A	\$1,439,000		2015	\$1,287,427	\$526,402
	2011- 2012	N/Ä	\$2,723,000	Quebec	2010- 2011	N/A	\$2,297,295
	2012- 2013	N/A	\$1,721,000		2011- 2012	N/A	\$2,245,089
	2013- 2014	N/A	\$1,995,000		2012- 2013	N/A	\$2,436,771
	2014- 2015	N/A	\$2,188,000		2013- 2014	N/A	\$2,891,476
Manitoba	2010- 2011	N/A	\$250,498		2014- 2015	N/A	\$4,858,150
	2011- 2012	N/A	\$231,303	Ontario*	2009- 2010	\$1,583,851	\$988,638
	2012- 2013	N/A	\$265,152		2010- 2011	\$1,781,712	\$1,242,612

Annex 1

2016-013428

Province/Territory	Year		deral	Province/Territory	Year	Fede	ral
		Surcharge Imposed	Surcharge Collected			Surcharge Imposed	Surcharge Collected
	2013- 2014	N/A	\$253,940		2011- 2012	\$1,579,184	\$1,222,701
	2014- 2015	N/A	\$425,281		2012- 2013	\$1,907,932	\$1,178,499
	2013		*		2013-	\$3,373,362	\$1,342,272
					2014 2014- 2015	\$9,827,640	\$3,240,072
New Brunswick ³	2010- 2011	\$353,462	\$310,635	Saskatchewan	2010- 2011	\$687,041	\$516,754
	2011- 2012	\$334,960	\$295,719		2011- 2012	\$699,484	\$541,794
	2012- 2013	\$295,082	\$257,219		2012- 2013	\$731,995	\$687,412
	2013- 2014	\$514,511	\$353,052		2013- 2014	\$1,237,052	\$1,124,861
	2014- 2015	\$1,253,911	\$536,014		2014- 2015	\$3,873,651	\$2,838,517
Newfoundland and Labrador	2010- 2011	\$179,217	\$188,245	Yukon	2010- 2011	\$33,233	\$24,050
	2011- 2012	\$200,230	\$232,806		2011- 2012	\$31,410	\$22,692
	2012- 2013	\$164,383	\$186,535		2012- 2013	\$22,132	\$14,795
	2013- 2014	\$260,128	\$174,649		2013- 2014	\$30,046	\$14,842
	2014- 2015	\$830,029	\$290,530		2014-	\$113,557	\$63,665
Prince Edward	2010- 2011	N/A	\$74,378		2015		
, siune	2011- 2012	N/A	\$79,362				
1	2012- 2013	N/A	\$69,119	1			
	2013- 2014	N/A	\$57,460		e e	٥	
	2014- 2015	\$258,054	\$64,757				

Notes: * Data are missing for the Northwest Territories and Nunavut

Eleven (11) jurisdictions (Manitoba (MB), New Brunswick (NB), Newfoundland and Labrador (NL), Nova Scotia (NS), Prince Edward Island (PEI), Yukon (YK), Ontario (ON), Quebec (QC), British Columbia (BC), Alberta (AB) and Saskatchewan (SK)) have provided the Department of Justice with information on the amounts of federal victim surcharge collected over a period of five years from 2010 to 2015. Since the removal of the waiver (2013), the amounts of federal surcharge collected by the provinces has decreased in one jurisdiction (PEI) and increased in the ten other jurisdictions. We understand that in most jurisdictions, the federal victim surcharge makes up a very small proportion of total revenues in comparison to the provincial surcharge.

¹BC 2014-2015 figures only to December 31, 2014.

²Nova Scotia uses calendar year.

³Youth surcharge amounts removed.

⁴Ontario amounts do include youth surcharge.

⁵Youth surcharge and other federal statutes surcharge amounts removed.

Annex 1

2016-013428

NB saw an increase from \$256,844 in revenues collected from the federal victim surcharge in 2012/13 to \$535,909 in 2014/15. MB also saw an increase in its revenues collected from \$265,152 in 2012/13 to \$425,281 in 2014/15. NL saw fluctuations of federal victim surcharge revenues collected in the years 2010/11 to 2013/14 with an increase in 2014/15. The Yukon followed the same pattern.

In ON, in 2014/15, the federal victim surcharge imposed was \$9,827,640 and the amount collected was \$3,240,072. This collected amount is higher than previous years. In SK, in 2014/15, the amount of federal victim surcharge imposed was more than five times that imposed in 2012/13, the last full fiscal year before the waiver was removed. In the fiscal year 2014/15, the amount collected was still more than double the previous year at \$2,838,517.

The Department of Justice has recently completed research with nine of the jurisdictions to better understand enforcement efforts and challenges of the federal victim surcharge. Officials responsible for the enforcement of the federal victim surcharge from the provinces and territories have been interviewed to understand what happens when offenders cannot pay the federal victim surcharge. The final report is in the review stage and should be posted on the Department's website this fall.

Annex 2

2016-013428

Victims Fund supports to provinces and territories

PT Government	Notional	Paid	Lapse	Percentage
Fiscal Year	Allocation	·		Lapse
YUKON				
2012-13	500,000	363,442	136,558	27
2013-14	500,000	432,905	67,095	13
2014-15	500,000	497,524	2,476	.04
2015-16	500,000	0	Ongoing	
NORTHWEST				
TERRITORIES				X
2012-13	500,000	477,116	22,884	4.5
2013-14	500,000	500,000	0	0
2014-15	500,000	500,000	0	0
2015-16	500,000	359,699	Ongoing	
NUNAVUT				
2012-13	277,361	223,839	53,522	19
2013-14	408,667	274,770	133,897	33
2014-15	499,872	444,777	55,095	11
2015-16	499,969	0	Ongoing	
BRITISH COLUMBIA		1		
2012-13	303,955	275,547	28,408	9
2013-14	175,400	173,794	1,606	.09
2014-15	493,688	453,114	40,574	8
2015-16	499,700	0	Ongoing	
ALBERTA				
2012-13	499,900	395,624	104,276	21
2013-14	499,900	365,073	134,917	27
2014-15	499,900	499,900	0	0
2015-16	499,900	0	Ongoing	
SASKATCHEWAN				
2012-13	265,729	265,729	0	0
2013-14	492,550	492,550	0	0
2014-15	485,598	481,658	3,940	1
2015-16	281,454	0	Ongoing	
MANITOBA				
2012-13	69,567	36,645	32,922	47 ·
2013-14	110,662	87,520	23,142	21
2014-15	99,708	95,414	4,294	.4
2015-16	154,500	94,683	Ongoing	
ONTARIO				
2012-13	500,000	471,124	28,876	5.7
2013-14	500,000	487,946	12,054	2
2014-15	500,000	497,973	2,027	.04
2015-16	250,000	20,375	Ongoing	

Annex 2

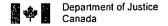
2016-013428

Victims Fund supports to provinces and territories

PT Government	Notional	Paid	Lapse	Percentage
Fiscal Year	Allocation			Lapse
NEW BRUNSWICK				
2012-13	500,874	156,501	344,373	69
2013-14	424,725	176,017	248,708	59
2014-15	402,079	280,831	121,248	30
2015-16	417,585	0	Ongoing	
NOVA SCOTIA				
2012-13.	497,100	209,716	287,384	58
2013-14	347,100	273,230	73,870	21
2014-15	432,600	370,840	61,760	14
2015-16	432,600	0	Ongoing	
PRINCE EDWARD				
ISLAND		, ,	1	
2012-13	277,233	182,667	94,566	34 .
2013-14	195,789	174,524	21,265	11
2014-15	206,657	201,837	4,820	2
2015-16	179,797	179,797	Ongoing	•
NEWFOUNDLAND AND				
LABRADOR				
2012-13	499,900	395,624	104,276	21
2013-14	499,900	365,073	134,827	27
2014-15	499,900	499,900	0	0
2015-16	499,900	0	Ongoing	
Average percentage lapse 2014-15		-		5.4

QUEBEC – up until fiscal year 2015-2016, Quebec has not requested any funding through the federal victims fund.

s.23



Ministère de la Justice Canada

> Numero du Dossier/File #:2016-019575 Cote de sécurité/Security Classification: Protected B

TITRE/TITLE: Gender-Based Violence Strategy - Issues for Justice Canada

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- This package contains information on a number of issues related to gender-based violence (GBV). Each item responds to questions raised by the Minister of Status of Women Canada, who has been mandated to conduct consultations and develop a federal strategy against GBV.
- Judicial education: The Department of Justice is not responsible for judicial education, due to the independence of the judiciary. The National Judicial Institute provides courses and resources to judges and receives funding from Justice Canada.
- Third-party advocates:

The Justice Victims Fund could be used to support some projects to provide legal advice (not representation) for victims of crime.

- The Victims Bill of Rights: Materials and training on the Victims Bill of Rights Act have been, and continue to be, developed and delivered to provincial and territorial (PT) counterparts and stakeholders. Funding has also been made available to PTs to facilitate their own awareness-raising and implementation efforts through the Victims Fund.
- Legal Aid for Indigenous women: The Department of Justice provides criminal legal aid funding to the PTs, who are responsible for the administration of justice and the management of their legal aid plans. This funding is not allocated to reserves. Gender is not a determining factor in assessing eligibility for legal aid. Some PTs have developed plans to better serve Indigenous populations.

s.69(1)(g) re (a)

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Caroline Leclerc

Revue dans I'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: September 15, 2016

Protected "B" 2016-019575

Item #1: Judicial Education

Training for the judiciary. Minister Hajdu's office is interested in what could be done to ensure that judges are being trained or better trained on gender-based violence. MO is also interested in learning about judicial training more generally.

Judicial Education

The Department of Justice is not responsible for judicial education. In order to ensure judicial independence, judicial education in Canada is led by judges, who play key roles in the development and delivery of this training. Judicial education is never mandatory. The National Judicial Institute (NJI), an arm's length organization which was established in 1988, is the principal national body dedicated to continuing education for federally and provincially appointed judges throughout Canada. The NJI provides in-person and online programs, delivered across Canada in English and French. The programming encompasses substantive law, judicial skills development and social context awareness.

The NJI's curriculum includes a four-day skills-based program on managing domestic violence cases. This program brings together family and criminal judges, as well as academics and other experts, to work through problems at every stage of a domestic violence matter involving concurrent criminal and family proceedings. Another 2.5 day program simulates each of the key stages in family court proceedings involving domestic violence allegations. The seminar considers both custody/access issues and child protection aspects. The NJI has also developed an Electronic Bench Book on Domestic Violence, which summarizes the findings of social science research on violence between intimate partners, distills the relevant case law and legislation, and relates it to each of the areas of family law where violence issues need to be considered.

Justice Canada Funding for the NJI

The Justice Partnership and Innovations Fund (JPIF) provides the NJI with an annual named grant of \$268K as well as funding for specific projects. For instance, the Justice Victims Fund provided funding to the NJI for a specific victims curriculum that was used at the Atlantic Regional Training from 2009 to 2012. Funding was also provided to develop a full curriculum on the sexual assault trial in 2012-13.

s.23

Protected "B" 2016-019575

Item #2: Third Party Advocates

Third party advocates to help guide complainants through the criminal justice system. Minister's Hadju's office raised the example of the Province of Ontario's new program to provide victims of sexual assault with 4 free hours of legal advice. What role, if any, could the federal government play in facilitating system navigation for complainants? What does the Department think of the third party advocate idea?

Standing for victims in the criminal justice process

Given Canada's adversarial system, criminal proceedings are between the State and the accused.

The Criminal Code has been amended on several occasions to increase the opportunities for victims to participate in the criminal trial process. Victims have limited legal standing as a party in criminal proceedings for the purposes of third party records applications in sexual offences trials (ss. 278.1-278.9 Criminal Code). The Criminal Code provides victims some roles on applications for publication bans and other testimonial aids. Victims may also file and, upon request, read a victim impact statement during the sentencing hearing. Victim service providers, under PT jurisdiction, can assist victims through the criminal trial process. The Justice Victims Fund provides PTs with funding to help support the delivery of victim services and provides funding to non-governmental organizations.

Legal Aid

PTs, which are responsible for the administration of justice, deliver criminal legal aid services. Eligibility for legal aid presupposes standing in the matter. Federal funding is provided through transfer payments to the PTs for criminal legal aid. Legal aid programs in some jurisdictions have provided state funded legal services to victims which has to date been limited to matters where the victims' Charter rights are at stake, i.e. privacy rights in the case of third party records applications.

Ontario Pilot Project – Independent Legal Advice for Sexual Assault Survivors
The pilot project in Ontario is run by Ministry of the Attorney General and not Legal Aid
Ontario. It covers more than the Charter rights of criminal complainants; in fact, charges
need not have been laid for a victim to receive the legal advice. Legal representation is
not provided for. This pilot is squarely within provincial jurisdiction.

Protected "B" 2016-019575

Item #3: Awareness-Raising of the Victims Bill of Rights Act

Minister Hajdu has advised that her stakeholders believe more needs to be done to raise awareness of the Victims Bill of Rights Act (VBR). MO has requested information on current awareness-raising activities for the VBR as well as opportunities for improved awareness-raising in the future.

Awareness-raising materials on victims' rights under the *Victims Bill of Rights Act* (VBR) were first included on the Government of Canada's website when the VBR received Royal Assent on April 23, 2015. Those materials provide an overview of the four areas of rights enshrined in the stand-alone *Canadian Victims Bill of Rights* (CVBR) - information, protection, participation and to seek restitution - as well as information on the complaints mechanism. A comprehensive package of products was then posted on the Government of Canada's website when the majority of the VBR, including the CVBR, came into force on July 23, 2015.

These products include information for victims regarding their rights at various stages of the criminal justice system; fact sheets on *Criminal Code* provisions such as testimonial aids, publication bans and victim impact statements; and infographics on a variety of topics including restitution and peace bonds. The Federal-Provincial-Territorial (FPT) Victims of Crime Working Group and the Working Group's sub-committee on the implementation of the VBR were made aware of the materials. Justice officials also created a brochure on the CVBR which was distributed at the Government's Victims and Survivors of Crime Week 2016 Symposium and made available to the Canadian Association of Chiefs of Police for distribution to their members.

Funding has been made available to provinces and territories (PTs) from 2015/16 – 2019/20 through the Victims Fund in order to assist them in implementing the VBR. The PTs have accessed this funding to support a range of activities to raise awareness of victims' rights. For example, PTs have hired new staff members who are specifically responsible for implementing the VBR and ensuring that victims and criminal justice personnel are aware of the newly enshrined rights. PTs have also accessed funding to print material regarding victims' rights. In addition, a call for proposals was sent to selected criminal justice professional associations and organizations this summer inviting them to submit applications for funding to undertake training to support the implementation of the VBR.

The FPT Victims of Crime Working Group continues to hold regular in-person meetings, conference calls and WebExs which always include a discussion on the implementation of the VBR and sharing of best practices for raising awareness of the legislation. Justice officials have provided training on the VBR to a number of jurisdictions and non-governmental organizations and will continue to do so. They held a WebEx for all PTs on restitution enforcement in 2016 with additional WebExs on the VBR planned for the 2016-17 fiscal year. Justice officials delivered a workshop on the VBR at the National Crime Victim Law Conference on Victims' Rights in June 2016 and the National Organization for Victim Assistance Conference in August 2016, both of which included participants from the federal and PT governments.

Protected "B" 2016-019575

Item #4: Legal Aid for Indigenous Women On-Reserve Who are Victims of Gender-Based Violence

Legal aid for Indigenous women on-reserve who are victims of gender-based violence. What, if any, parameters are we – as the federal government – able to put around how criminal legal aid is distributed in the PTs? Do we allocate legal aid funding to reserves? If so, how does that work?

Legal Aid

The federal government, through the Department of Justice Canada (Justice), provides criminal legal aid funding to the provinces and territories for legal services to economically disadvantaged persons at risk of incarceration and young persons facing proceedings under the *Youth Criminal Justice Act*. Federal funding for legal aid is not allocated to reserves, nor is it provided for victims (with very limited exceptions).

This funding supports the delivery of legal information, advice and representation to economically disadvantaged persons, and promotes fair legal proceedings and public confidence in the justice system. It is allocated using a distribution formula that considers legal aid cost drivers including among others, persons charged, Indigenous population, and rural and remote population.

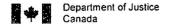
Provinces and territories are responsible for the administration of justice including the management of their legal aid plans, which provide these legal aid services. Eligibility to receive legal aid differs from jurisdiction to jurisdiction, based on guidelines established by each plan. Gender is not a determining factor, rather eligibility is largely determined on the basis of economic status (i.e., low income), scope of coverage (i.e., seriousness of the matter) and merit of the case (likelihood of success).

Some jurisdictions have developed strategies to better serve, and specific services for, Indigenous populations. These include, among others, First Nations Courts, outreach services to Indigenous communities, and preparation of Gladue reports.

Legal aid programs in some jurisdictions provide legal services to victims in matters where the victim's Charter rights are at stake, i.e., privacy rights in the case of third party record applications.

Page 79 is withheld pursuant to section est retenue en vertu de l'article

69(1)(g) re (a)



Ministère de la Justice Canada s.21(1)(a)

s.23

FOR INFORMATION
NÚMÉRO DU DOSSIER/FILE #: 2016-019154
COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: Secret

TITRE/TITLE: Call with Rob Oliphant: Bill S-201, the *Genetic Non-Discrimination Act* s.69(1)(g) re (a)

	s.69(1)(g) re (c)
	Sommaire exécutif/Executive summary
	•
•	You have a call scheduled for September 15, 2016 with Rob Oliphant, MP, the sponsor of Bill S-201 in the House of Commons.
•	
•	
•	

Soumis par (secteur)/Submitted by (Sector):

Public Law and Legislative Services Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Claudine Patry

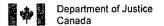
Revue dans l'ULM par/Edited in the MLU by:

Matt Ignatowicz

Soumis au CM/Submitted to MO: September 9, 2016

s.21(1)(a)

s.21(1)(b)



Ministère de la Justice Canada

Secret FOR INFORMATION

2016-019154

MEMORANDUM FOR THE MINISTER

Call with Rob Oliphant: Bill S-201, the Genetic Non-Discrimination Act

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You have a call scheduled for September 15, 2016, with Rob Oliphant, MP, the sponsor of Bill S-201 (Annex 1) in the House of Commons.

(Annex 2).

Annex 4.

BACKGROUND

Bill S-201 was introduced in the Senate by Senator James Cowan in December 2015, and adopted unanimously by the Senate in March 2016. The Bill is being sponsored in the House by Oliphant. As introduced in the House, Bill S-201 would:

- Enact a stand-alone Genetic Non-Discrimination Act (GNDA) to prohibit requiring
 individuals to undergo genetic testing or to disclose genetic test results as a condition of
 providing goods or services or of entering into and maintaining a contract. Exceptions are
 provided for health care practitioners.
- Amend the *Canada Labour Code* (CLC) to protect federal employees from being required to undergo or to disclose the results of genetic tests, and to prohibit disciplinary action by an employer as a consequence of such refusal.
- Amend the Canadian Human Rights Act (CHRA) to prohibit discrimination on the ground of "genetic characteristics."
 s.69(1)(g) re (a)

The Bill is scheduled for Second Reading on September 20, 2016. s.69(1)(g) re (c)

On August 12, 2016, you met with Mr. Oliphant and Senator Cowan (see Briefing Note: 2016-
011782).
(Annex 3).
(Annex 4).

Page 1 of 3 revs mlu 9 Sep 2016-019154 Rob Oliphant BN

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CONSIDERATIONS s.69(1)(g) re (c)

s.21(1)(a)

s.21(1)(b)

s.23

Conclusion

ANNEXES

Bill S-201, An Act to prohibit and prevent genetic discrimination Annex 1:

21416

Annex 2:

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Annex 5:

PREPARED BY

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Constitutional, Administrative and

International Law Section

613-941-4023

ANNEX 1

First Session, Forty-second Parliament, 64-65 Elizabeth II, 2015-2016

Première session, quarante-deuxième législature, 64-65 Elizabeth II, 2015-2016

SENATE OF CANADA

SÉNAT DU CANADA

BILL S-201

PROJET DE LOI S-201

An Act to prohibit and prevent genetic discrimination

Loi visant à interdire et à prévenir la discrimination génétique

AS PASSED

BY THE SENATE

APRIL 14, 2016

ADOPTÉ

PAR LE SÉNAT

LE 14 AVRIL 2016

SUMMARY

This enactment prohibits any person from requiring an individual to undergo a genetic test or disclose the results of a genetic test as a condition of providing goods or services to, entering into or continuing a contract or agreement with, or offering specific conditions in a contract or agreement with, the individual. Exceptions are provided for health care practitioners and researchers. The enactment provides individuals with other protections related to genetic testing and test results.

The enactment amends the Canada Labour Code to protect employees from being required to undergo or to disclose the results of a genetic test, and provides employees with other protections related to genetic testing and test results. It also amends the Canadian Human Rights Act to prohibit discrimination on the ground of genetic characteristics.

SOMMAIRE

Le texte interdit à quiconque d'obliger une personne à subir un test génétique ou à en communiquer les résultats comme condition préalable à la fourniture de biens et services, à la conclusion ou au maintien d'un contrat ou d'une entente avec elle ou à l'offre de modalités particulières dans un contrat ou dans une entente. Il prévoit des exceptions pour les professionnels de la santé et les chercheurs. Le texte prévoit d'autres protections relatives aux tests génétiques et aux résultats de ceux-ci.

Le texte modifie également le Code canadien du travail afin de protéger les employés contre l'obligation de subir un test génétique ou d'en communiquer les résultats, et de prévoir d'autres protections relatives aux tests génétiques et aux résultats de ceux-ci, de même que la Loi canadienne sur les droits de la personne afin d'interdire la discrimination fondée sur des caractéristiques génétiques.

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1st Session, 42nd Parliament, 64-65 Elizabeth II, 2015-2016

SENATE OF CANADA

1^{re} session, 42^e législature, 64-65 Elizabeth II, 2015-2016

SÉNAT DU CANADA

BILL S-201

An Act to prohibit and prevent genetic discrimination

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the Genetic Non-Discrimination Act.

Interpretation

Definitions

2 The following definitions apply in this Act.

disclose includes to authorize disclosure. (communiquer)

genetic test means a test that analyzes DNA, RNA or chromosomes for purposes such as the prediction of dis- 10 ease or vertical transmission risks, or monitoring, diagnosis or prognosis. (test génétique)

health care practitioner means a person lawfully entitled under the law of a province to provide health services in the place in which the services are provided by 15 that person. (professionnel de la santé)

Prohibitions

Genetic test

- **3 (1)** It is prohibited for any person to require an individual to undergo a genetic test as a condition of
 - (a) providing goods or services to that individual;

PROJET DE LOI S-201

Loi visant à interdire et à prévenir la discrimination génétique

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

Titre abrégé

Titre abrégé

1 Loi sur la non-discrimination génétique.

Définitions

Définitions

 ${f 2}$ Les définitions qui suivent s'appliquent à la présente 5 loi.

communiquer Est assimilé à l'acte de communiquer le fait d'autoriser la communication. (disclose)

professionnel de la santé Personne légalement autorisée en vertu de la loi d'une province à fournir des services 10 de santé au lieu où elle les fournit. (health care practitioner)

test génétique Test visant l'analyse de l'ADN, de l'ARN ou des chromosomes à des fins telles la prédiction de maladies ou de risques de transmission verticale, ou la sur- 15 veillance, le diagnostic ou le pronostic. (genetic test)

Interdictions

Test génétique

- **3 (1)** Nul ne peut obliger une personne à subir un test génétique comme condition préalable à l'exercice de l'une ou l'autre des activités suivantes :
 - a) pour lui fournir des biens ou des services;

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An Act to prohibit and prevent genetic discrimination Prohibitions Sections 3-7 Loi visant à interdire et à prévenir la discrimination génétique Interdictions Articles 3-7

- (b) entering into or continuing a contract or agreement with that individual; or
- (c) offering or continuing specific terms or conditions in a contract or agreement with that individual.

Refusal to undergo genetic test

(2) It is prohibited for any person to refuse to engage in 5 an activity described in any of paragraphs (1)(a) to (c) in respect of an individual on the grounds that the individual has refused to undergo a genetic test.

Disclosure of results

4 (1) It is prohibited for any person to require an individual to disclose the results of a genetic test as a condition of engaging in an activity described in any of paragraphs 3(1)(a) to (c).

Refusal to disclose results

(2) It is prohibited for any person to refuse to engage in an activity described in any of paragraphs 3(1)(a) to (c) in respect of an individual on the grounds that the individu- 15 al has refused to disclose the results of a genetic test.

Written consent

activity described in any of paragraphs 3(1)(a) to (c) in respect of an individual to collect, use or disclose the results of a genetic test of the individual without the individual's written consent.

Exceptions: health care practitioners and researchers

- 6 Sections 3 to 5 do not apply to
 - (a) a physician, a pharmacist or any other health care practitioner in respect of an individual to whom they are providing health services; or
 - **(b)** a person who is conducting medical, pharmaceutical or scientific research in respect of an individual who is a participant in the research.

Offences and Punishment

Contravention of sections 3 to 5

- **7** Every person who contravenes any of sections 3 to 5 is guilty of an offence and is liable
 - (a) on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding five years, or to both; or

- b) pour conclure ou maintenir un contrat ou une entente avec elle;
- c) pour offrir ou maintenir des modalités particulières dans le cadre d'un contrat ou d'une entente avec elle.

Refus de subir un test génétique

(2) Nul ne peut refuser d'exercer une activité visée à l'un 5 des alinéas (1)a) à c) à l'égard d'une personne au motif qu'elle a refusé de subir un test génétique.

Communication des résultats

4 (1) Nul ne peut obliger une personne à communiquer les résultats d'un test génétique comme condition préalable à l'exercice d'une activité visée à l'un des alinéas 10 3(1)a) à c).

Refus de communiquer les résultats

(2) Nul ne peut refuser d'exercer une activité visée à l'un des alinéas 3(1)a) à c) à l'égard d'une personne au motif qu'elle a refusé de communiquer les résultats d'un test génétique.

Consentement écrit

5 Il est interdit à quiconque exerce une activité visée aux alinéas 3(1)a) à c) à l'égard d'une personne de recueillir, d'utiliser ou de communiquer les résultats d'un test génétique de celle-ci sans son consentement écrit.

Exceptions : professionnels de la santé et chercheurs

- 6 Les articles 3 à 5 ne s'appliquent pas :
 - a) au médecin, au pharmacien et à tout autre professionnel de la santé qui fournissent des services de santé à une personne;
 - b) au chercheur qui mène des recherches médicales, pharmaceutiques ou scientifiques à l'égard d'un parti- 25 cipant à ces recherches.

Infractions et peines

Contravention aux articles 3 à 5

- 7 Quiconque contrevient à l'un des articles 3 à 5 commet une infraction et encourt, sur déclaration de culpabilité :
 - a) par mise en accusation, une amende maximale de un million de dollars et un emprisonnement maximal 30 de cinq ans, ou l'une de ces peines;

2015-2016

An Act to prohibit and prevent genetic discrimination Offences and Punishment Sections 7-8

Loi visant à interdire et à prévenir la discrimination génétique Infractions et geines Articles 7-8

(b) on summary conviction, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding twelve months, or to both.

Canada Labour Code

8 The Canada Labour Code is amended by adding the following after section 247.97:

DIVISION XV.3

Genetic Testing

Definitions

247.98 (1) The following definitions apply in this Divi-

disclose includes to authorize disclosure. (communi- 10

genetic test, in relation to an employee, means a test that analyzes the employee's DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or progno- 15 sis. (test génétique)

Genetic test

(2) Every employee is entitled not to undergo or be required to undergo a genetic test.

Disclosure of results

(3) Every employee is entitled not to disclose or be required to disclose the results of a genetic test.

Disciplinary action

- (4) No employer shall dismiss, suspend, lay off or demote an employee, impose a financial or other penalty on an employee, or refuse to pay an employee remuneration in respect of any period that the employee would, but for have worked, or take any disciplinary action against or threaten to take any such action against an employee
 - (a) because the employee refused a request by the employer to undergo a genetic test;
 - (b) because the employee refused to disclose the re- 30 sults of a genetic test; or
 - (c) on the basis of the results of a genetic test undergone by the employee.

b) par procédure sommaire, une amende maximale de trois cent mille dollars et un emprisonnement maximal de douze mois, ou l'une de ces peines.

L.R., ch. L-2

Code canadien du travail

8 Le Code canadien du travail est modifié par adjonction, après l'article 247.97, de ce qui suit :

SECTION XV.3

Tests génétiques

Définitions

247.98 (1) Les définitions qui suivent s'appliquent à la présente section.

communiquer Est assimilé à l'acte de communiquer le 10 fait d'autoriser la communication. (disclose)

test génétique Test visant l'analyse de l'ADN, de l'ARN ou des chromosomes de l'employé à des fins telles la prédiction de maladies ou de risques de transmission verticale, ou la surveillance, le diagnostic ou le pronostic. (ge- 15 netic test)

Test génétique

(2) Tout employé a le droit de refuser de subir un test génétique, et nul ne peut l'obliger à en subir un.

Communication des résultats

(3) Tout employé a le droit de ne pas communiquer les résultats d'un test génétique, et nul ne peut l'obliger à les 20 communiquer.

Mesures disciplinaires interdites

- (4) Il est interdit à l'employeur de congédier, suspendre, mettre à pied ou rétrograder un employé ou de lui imposer une sanction pécuniaire ou autre ou de refuser de lui verser la rémunération afférente à la période au cours de 25 the exercise of the employee's rights under this Division, 25 laquelle il aurait travaillé s'il ne s'était pas prévalu des droits prévus par la présente section, ou de prendre — ou menacer de prendre — des mesures disciplinaires contre lui pour l'un ou l'autre des motifs suivants :
 - a) son refus de subir un test génétique à la demande 30 de l'employeur;
 - b) son refus de communiquer les résultats d'un test génétique;
 - c) les résultats d'un test génétique qu'il a subi.

An Act to prohibit and prevent genetic discrimination Canada Labour Code Section 8 Loi visant à interdire et à prévenir la discrimination génétique Code canadien du travail Article 8

Disclosure by third party

(5) No person shall disclose to an employer that an employee has undergone a genetic test, or disclose to an employer the results of a genetic test, without the written consent of the employee.

Collection or use

(6) No employer shall collect or use the results of a ge- 5 netic test without the written consent of the employee who has undergone the test.

Complaint to inspector

247.99 (1) An employee who alleges that an employer has taken action against the employee in contravention of subsection 247.98(4) may make a complaint in writing 10 to an inspector.

Time for making complaint

(2) Subject to subsection (3), the complaint shall be made to the inspector not later than 90 days after the date on which the complainant knew, or in the inspector's opinion ought to have known, of the action or cir- 15 cumstances giving rise to the complaint.

Extension of time

(3) The Minister may extend the period of time referred to in subsection (2) if the Minister is satisfied that a complaint was made in that period to a government official who had no authority to deal with the complaint but that 20 the employee making the complaint believed the official had that authority.

Inspector to assist parties

(4) On receipt of a complaint made under subsection (1), an inspector shall endeavour to assist the parties to the complaint to settle the complaint or cause another in- 25 spector to do so.

Where complaint not settled within reasonable time

- (5) Where a complaint is not settled under subsection (4) within such period as the inspector endeavouring to assist the parties pursuant to that subsection considers to be reasonable in the circumstances, the inspector shall, 30 on the written request of the employee who made the complaint that the complaint be referred to an adjudicator under subsection (6),
 - (a) report to the Minister that the endeavour to assist the parties to settle the complaint has not succeeded; 35 and
 - (b) deliver to the Minister the complaint made under subsection (i) and any other statements or documents the inspector has that relate to the complaint.

Communication par un tiers

(5) Nul ne peut communiquer à l'employeur le fait qu'un employé a subi un test génétique ou les résultats d'un tel test sans le consentement écrit de l'employé.

Collecte ou utilisation

(6) Il est interdit à l'employeur de recueillir ou d'utiliser les résultats d'un test génétique subi par un employé sans 5 le consentement écrit de celui-ci.

Plainte à un inspecteur

247.99 (1) L'employé peut déposer une plainte écrite auprès d'un inspecteur au motif que son employeur a pris, à son endroit, des mesures contraires au paragraphe 247.98(4).

Délai

(2) Sous réserve du paragraphe (3), la plainte est déposée auprès de l'inspecteur dans les quatre-vingt-dix jours suivant la date où le plaignant a eu connaissance — ou, selon l'inspecteur, aurait dû avoir connaissance — de l'acte ou des circonstances y ayant donné lieu.

Prorogation du délai

(3) Le ministre peut proroger le délai fixé au paragraphe (2) dans les cas où il est convaincu que l'intéressé a déposé sa plainte à temps mais auprès d'un fonctionnaire qu'il croyait, à tort, habilité à la recevoir.

Conciliation par l'inspecteur

(4) Dès réception de la plainte, l'inspecteur s'efforce de 20 concilier les parties ou confie cette tâche à un autre inspecteur.

Cas d'échec

- (5) Si la conciliation n'aboutit pas dans un délai qu'il estime raisonnable en l'occurrence, l'inspecteur, sur demande écrite du plaignant de renvoyer le cas à un arbitre 25 conformément au paragraphe (6):
 - a) fait rapport au ministre de l'échec de son intervention;
 - b) transmet au ministre la plainte accompagnée des autres déclarations ou documents s'y rapportant.

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An Act to prohibit and prevent genetic discrimination Canada Labour Code Section 8

Loi visant à interdire et à prévenir la discrimination génétique Code canadien du travail Article 8

Reference to adjudicator

(6) The Minister may, on receipt of a report pursuant to subsection (5), appoint any person that the Minister considers appropriate as an adjudicator to hear and adjudicate on the complaint in respect of which the report was made, and refer the complaint to the adjudicator.

Decision of adjudicator

- (7) An adjudicator to whom a complaint has been referred under subsection (6) shall
 - (a) consider whether the employer has contravened subsection 247.98(4) and render a decision on it; and
 - (b) send a copy of the decision with the reasons for 10 the decision to each party to the complaint and to the Minister.

Orders

- (8) If an adjudicator decides pursuant to subsection (7) that an employer has contravened subsection 247.98(4), the adjudicator may, by order, require the employer to 15 cease contravening that subsection and may, if applicable, by order, require the employer to
 - (a) permit the employee to return to the duties of their employment;
 - (b) reinstate the former employee;
 - (c) pay to the employee or former employee compensation not exceeding the sum that, in the adjudicator's opinion, is equivalent to the remuneration that would, but for the contravention, have been paid by the employer to the employee or former employee;
 - (d) rescind any disciplinary action taken in respect of the contravention and pay compensation to the employee, not exceeding the sum that, in the adjudicator's opinion, is equivalent to any financial or other penalty imposed on the employee by the employer; 30
 - (e) do any other like thing that it is equitable to require the employer to do in order to remedy or counteract any consequences of the contravention.

Application of provisions

(9) Subsection 242(2) applies to a complaint that has 35 been referred to an adjudicator under subsection (6), sections 243 and 244 apply to an order of an adjudicator under subsection (8), and subsection 246(1) applies to an employee who makes a complaint under subsection (1), with any necessary modifications.

Renvoi à un arbitre

(6) Sur réception du rapport visé au paragraphe (5), le ministre peut désigner en qualité d'arbitre la personne qu'il juge qualifiée pour entendre et trancher l'affaire et lui transmettre la plainte.

Décision de l'arbitre

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- (7) Pour l'examen du cas dont il est saisi, l'arbitre :
 - a) détermine si l'employeur a contrevenu au paragraphe 247.98(4) et rend une décision sur la question;
 - b) transmet une copie de sa décision, motifs à l'appui, à chaque partie ainsi qu'au ministre.

Ordonnances

- (8) S'il détermine, conformément au paragraphe (7), que 10 l'employeur a contrevenu au paragraphe 247.98(4), l'arbitre peut, par ordonnance, enjoindre à celui-ci de cesser d'y contrevenir et en outre, s'il y a lieu :
 - a) de permettre à l'employé de reprendre son travail;
 - b) de réintégrer dans son emploi l'ancien employé;
 - c) de verser à l'employé ou à l'ancien employé une indemnité équivalant au plus, à son avis, à la rémunération qui lui aurait été payée s'il n'y avait pas eu contravention;
 - d) d'annuler toute mesure disciplinaire prise à l'en- 20 contre de l'employé et de payer à celui-ci une indemnité équivalant au plus, à son avis, à la sanction pécuniaire ou autre qui lui a été imposée par l'employeur;
 - e) de prendre toute autre mesure qui soit équitable et de nature à remédier ou à parer aux effets de la 25 contravention.

Application des dispositions

(9) Le paragraphe 242(2) s'applique, avec les adaptations nécessaires, à la plainte renvoyée à un arbitre conformément au paragraphe (6); les articles 243 et 244 s'appliquent, avec les adaptations nécessaires, à l'ordonnance 30 de l'arbitre visée au paragraphe (8); et le paragraphe 40 246(1) s'applique, avec les adaptations nécessaires, à

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An Act to prohibit and prevent genetic discrimination Sections 8-10

Loi visant à interdire et à prévenir la discrimination génétique Code canadien du travail Articles 8-10

Canadian Human Rights Act

9 Section 2 of the Canadian Human Rights Act is replaced by the following:

Purpose

2 The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle 5 that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hin- 10 dered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in 15 respect of which a record suspension has been ordered.

10 (1) Subsection 3(1) of the Act is replaced by the following:

Prohibited grounds of discrimination

3 (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, 20 colour, religion, age, sex, sexual orientation, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

(2) Section 3 of the Act is amended by adding the following after subsection (2):

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(3) Where the ground of discrimination is refusal of a request to undergo a genetic test or to disclose, or authorize the disclosure of, the results of a genetic test, the dis- 30 crimination shall be deemed to be on the ground of genetic characteristics.

l'employé qui dépose une plainte en vertu du paragraphe

Loi canadienne sur les droits de la personne

9 L'article 2 de la Loi canadienne sur les droits de la personne est remplacé par ce qui suit :

2 La présente loi a pour objet de compléter la législation 5 canadienne en donnant effet, dans le champ de compétence du Parlement du Canada, au principe suivant : le droit de tous les individus, dans la mesure compatible avec leurs devoirs et obligations au sein de la société, à l'égalité des chances d'épanouissement et à la prise de 10 mesures visant à la satisfaction de leurs besoins, indépendamment des considérations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge, le sexe, l'orientation sexuelle, l'état matrimonial, la situation de famille, les caractéristiques génétiques, la 15 déficience ou l'état de personne graciée.

10 (1) Le paragraphe 3(1) de la même loi est remplacé par ce qui suit :

Motifs de distinction illicite

3 (1) Pour l'application de la présente loi, les motifs de distinction illicite sont ceux qui sont fondés sur la race, 20 l'origine nationale ou ethnique, la couleur, la religion, l'âge, le sexe, l'orientation sexuelle, l'état matrimonial, la situation de famille, les caractéristiques génétiques, l'état de personne graciée ou la déficience.

(2) L'article 3 de la même loi est modifié par ad- 25 jonction, après le paragraphe (2), de ce qui suit :

Idem

(3) Une distinction fondée sur le refus d'une personne, à la suite d'une demande, de subir un test génétique, de communiquer les résultats d'un tel test ou d'autoriser la communication de ces résultats est réputée être de la dis- 30 crimination fondée sur les caractéristiques génétiques.

ANNEX 2

Pages 94 to / à 96 are withheld pursuant to section sont retenues en vertu de l'article

21(1)(a)

ANNEX 3

Page 98 is withheld pursuant to sections est retenue en vertu des articles

14, 19(1), 21(1)(a), 21(1)(b)

Page 99 is withheld pursuant to sections est retenue en vertu des articles

19(1), 21(1)(a), 21(1)(b)

Pages 100 to / à 103 are withheld pursuant to sections sont retenues en vertu des articles

14, 21(1)(a), 21(1)(b)

Pages 104 to / à 105 are withheld pursuant to sections sont retenues en vertu des articles

14, 19(1), 21(1)(a), 21(1)(b)

Page 106 is withheld pursuant to sections est retenue en vertu des articles

14, 21(1)(a), 21(1)(b)

Pages 107 to / à 116 are withheld pursuant to sections sont retenues en vertu des articles

14, 19(1), 21(1)(a), 21(1)(b)

ANNEX 4

Page 118 is withheld pursuant to sections est retenue en vertu des articles

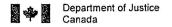
21(1)(a), 21(1)(b)

ANNEX 5

Pages 120 to / à 123 are withheld pursuant to section sont retenues en vertu de l'article

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Ministère de la Justice Canada

FOR INFORMATION
NUMERO DU DOSSIER/FILE #: 2016-017717
COTE DE SECURITE/SECURITY CLASSIFICATION: Secret

TITRE/TITLE: Justice Canada Contribution to the Federal Strategy Against Gender-Based Violence

	SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY
•	This note provides information on Justice Canada's proposed approach to contributing to the Federal Strategy Against Gender-Based Violence (GBV Strategy), which is under the lead of Status of Women Canada (SWC). s.69(1)(g) re (a)
Ф	
	s.69(1)(g) re (a)
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•	S.09(1)(g) re (d) Officials will continue to work with SWC to identify Justice Canada's contribution to the GBV Strategy.

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

Caroline Leclerc

Revue dans l'UACP par/Edited in the CPAU by:

Suzanne Johnson

Revue dans l'ULM par/Edited in the MLU by:

Matt Ignatowicz



Ministère de la Justice Canada

Secret FOR INFORMATION

2016-017717

MEMORANDUM FOR THE MINISTER

Justice Canada Contribution to the Federal Strategy Against Gender-Based Violence

ISSUE

This note provides information about Justice Canada's proposed approach for contributing to the Federal Strategy Against Gender-Based Violence, which is under the lead of Status of Women Canada (SWC).

BACKGROUND s.69(1)(g) re (a)

The mandate letter for the Minister for the Status of Women, the Honourable Patti Hadju, directs her to develop a Federal Strategy Against Gender-Based Violence (GBV Strategy), supported by you with respect to needed *Criminal Code* changes, and by the President of the Treasury Board with respect to strategies to combat sexual harassment in federal public institutions. The GBV Strategy will be comprised of three Pillars: prevention, supporting survivors, and strengthening justice system responses.

A Deputy Minister level meeting took place on August 30th to discuss the details of the GBV Strategy.

s.69(1)(g) re (a)

s.69(1)(g) re (a)

s.69(1)(g) re (a)

s.21(1)(a)

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Federal-Provincial-Territorial (FPT) Considerations

Minister Hadju is mandated to "develop and implement a comprehensive federal gender violence strategy and action plan, aligned with existing provincial strategies".

CONCLUSION

Justice Canada officials will continue to work in collaboration with SWC to identify Justice Canada's contribution to the GBV Strategy.

ANNEX 1: Justice Deliverables that could be linked to the GBV Strategy

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Justice Deliverables that could be linked to the GBV Strategy

The following initiatives represent possible deliverables, categorized under research, programs and outreach that could be linked to the GBV Strategy. The applicable GBV Strategy Pillar and current status are indicated for each item.
Research • Women in the Criminal Justice System (2016): Justice Canada is contributing to this chapter in the upcoming Women in Canada 2016 report by Statistics Canada for SWC. (Pillar: strengthening justice system responses; Status: possible release date December 2016) s.21(1)(a)
Programs

Funding for Family Information Liaison Units: Justice Canada's Victims Fund will make \$11.67 million over three years in contribution funding available to provincial and territorial governments for the establishment of Family Information Liaison Units (FILUs) within provincial and territorial Victim Services. These FILUs are intended to provide direct

s.21(1)(a)

assistance and support to families of missing and murdered Indigenous women and girls with their individual situations, by helping them to find the information they seek from other agencies and services (including the criminal justice system, social services, and policing). (Pillar: supporting survivors; Status: announced August 2016)

Increased Funding for Culturally-Responsive Victim Services: Justice Canada's Victims
 Fund will make available an additional \$4.5 million over four years in contribution funding
 for provincial and territorial governments and non-governmental victim serving organizations
 to support culturally-responsive victim services programs across Canada directly assisting
 family members of missing and murdered Indigenous women and girls. The funding would
 complement current departmental activities under the Action Plan to Address Family Violence
 and Violent Crimes Against Aboriginal Women and Girls (2015-2020). (Pillar: supporting
 survivors; Status: announced August 2016)

Outreach

- Coordinating Committee of Senior Officials (CCSO) Working Group on Access to Justice
 for Complainants in Sexual Assault Matters: If approved by FPT Ministers Responsible for
 Justice and Public Safety, a new federal-provincial-territorial (FPT) working group will be
 created, under the lead of the Yukon, to examine access to justice for complainants in sexual
 assault matters. Justice Canada would be an active member. (Pillars: supporting survivors &
 strengthening justice system response; Status: announcement anticipated in October 2016,
 subject to approval by FPT Ministers)
- Sexual Assault Knowledge Exchange: A possible event to be held in Ottawa in the Winter-Spring 2017, in collaboration with provincial and territorial justice partners would focus on current experiences associated with reporting, charging and prosecution rates of adult sexual assault in the criminal justice system and examine promising practices from within Canada and other common law jurisdictions to strengthen the criminal justice system responses. The audience would be comprised of FPT officials, criminal justice system professionals, academics and victim service providers. (Pillars: supporting survivors & strengthening justice system responses; Status: anticipated in Winter-Spring 2017, subject to your approval of Briefing Note #2016-010069)